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SENATE BILL 5

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Cisco McSorley

FOR THE COURTS, CORRECTIONS AND JUSTICE COMMITTEE

AN ACT

RELATING TO LAW ENFORCEMENT; AMENDING SECTIONS OF THE DNA IDENTIFICATION ACT TO MEET FEDERAL GUIDELINES ON QUALIFYING LABORATORIES; REQUIRING THE COLLECTION OF DNA SAMPLES FROM ADULTS CONVICTED OF A FELONY OFFENSE IN ANOTHER JURISDICTION; PROVIDING THAT THE DNA OVERSIGHT COMMITTEE SHALL DESIGNATE WHERE THE ADMINISTRATIVE CENTER IS TO BE LOCATED.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 29-16-3 NMSA 1978 (being Laws 1997, Chapter 105, Section 3, as amended) is amended to read:

"29-16-3. DEFINITIONS.--As used in the DNA Identification Act:

A. "administrative center" means the ~~[law enforcement agency or unit]~~ part of a national DNA index system qualified crime laboratory that administers and operates the

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1 DNA identification system;

2 ~~[B. "DNA oversight committee" means the DNA~~
3 ~~identification system oversight committee;~~

4 ~~G.]~~ B. "CODIS" means the federal bureau of
5 investigation's national DNA index system for storage and
6 exchange of DNA records submitted by forensic DNA laboratories;

7 ~~[D.]~~ C. "covered offender" means any person
8 convicted of a felony offense as an adult ~~[under the Criminal~~
9 ~~Code, the Motor Vehicle Code or the constitution of New Mexico]~~
10 pursuant to state, federal, tribal or military law or convicted
11 as an adult pursuant to youthful offender or serious youthful
12 offender proceedings under the Children's Code or a sex
13 offender required to register pursuant to the provisions of the
14 Sex Offender Registration and Notification Act;

15 ~~[E.]~~ D. "department" means the department of public
16 safety;

17 ~~[F.]~~ E. "DNA" means deoxyribonucleic acid as the
18 basis of human heredity;

19 ~~[G.]~~ F. "DNA identification system" means the DNA
20 identification system established pursuant to the DNA
21 Identification Act;

22 G. "DNA oversight committee" means the DNA
23 identification system oversight committee;

24 H. "DNA records" means the results of DNA testing
25 and related information;

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1 I. "DNA testing" means a forensic DNA analysis that
2 includes restriction fragment length polymorphism, polymerase
3 chain reaction or other valid methods of DNA typing performed
4 to obtain identification characteristics of samples;

5 J. "fund" means the DNA identification system fund;

6 K. "missing persons DNA identification system"
7 means the missing persons DNA identification system established
8 by the DNA Identification Act;

9 L. "sample" means a sample of biological material
10 sufficient for DNA testing; and

11 M. "sex offender DNA identification system" means
12 the sex offender DNA identification system established by the
13 DNA Identification Act."

14 Section 2. Section 29-16-4 NMSA 1978 (being Laws 1997,
15 Chapter 105, Section 4, as amended) is amended to read:

16 "29-16-4. ADMINISTRATIVE CENTER--POWERS AND DUTIES--
17 TRANSFER TO OTHER LAW ENFORCEMENT AGENCY.--

18 A. The administrative center shall be [~~an~~
19 ~~appropriate unit of the department or such other qualified New~~
20 ~~Mexico law enforcement agency as the secretary of public safety~~
21 ~~may designate in accordance with this section]~~ part of a crime
22 laboratory that meets the requirements for participation in the
23 national DNA index system.

24 B. The administrative center shall:

25 (1) establish and administer the DNA

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1 identification system. The DNA identification system shall
2 provide for collection, storage, DNA testing, maintenance and
3 comparison of samples and DNA records for forensic and
4 humanitarian purposes. Those purposes shall include generation
5 of investigative leads, statistical analysis of DNA profiles
6 and identification of missing persons and unidentified human
7 remains. Procedures used for DNA testing shall be compatible
8 with the procedures the federal bureau of investigation has
9 specified, including comparable test procedures, laboratory
10 equipment, supplies and computer software. Procedures used
11 shall meet or exceed the provisions of the federal DNA
12 Identification Act of 1994 regarding minimum standards for
13 state participation in CODIS, including minimum standards for
14 the acceptance, security and dissemination of DNA records;

15 (2) coordinate sample collection activities;
16 (3) perform or contract for DNA testing;
17 (4) serve as a repository for samples and DNA
18 records;

19 (5) act as liaison with the federal bureau of
20 investigation for purposes of CODIS;

21 (6) adopt rules and procedures governing:
22 (a) sample collection;
23 (b) DNA testing;
24 (c) the DNA identification system and
25 DNA records;

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1 (d) the acceptance, security and
2 dissemination of DNA records; and

3 (e) communication between local, state
4 and federal law enforcement agencies, the corrections
5 department and local jails and detention facilities in order to
6 minimize duplicate sample collections from the same individual;

7 (7) provide training to jail and detention
8 facility personnel who are required to collect samples pursuant
9 to Section [~~1 of this 2006 act~~] 29-3-10 NMSA 1978;

10 (8) be reimbursed for, pursuant to the DNA
11 Identification Act, the costs of sample collection and DNA
12 testing of samples taken for the purposes of the identification
13 of missing persons and unidentified human remains;

14 (9) establish and administer the missing
15 persons DNA identification system as a part of the DNA
16 identification system; and

17 (10) establish and administer the sex offender
18 DNA identification system as part of the DNA identification
19 system.

20 ~~[G. The secretary of public safety may designate,~~
21 ~~pursuant to a joint powers agreement, the crime laboratory of~~
22 ~~the police department for the largest municipality in a class A~~
23 ~~county having a population of more than two hundred fifty~~
24 ~~thousand at the most recent federal decennial census to act as~~
25 ~~the administrative center.~~

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1 ~~D. The secretary of public safety may designate,~~
2 ~~pursuant to a joint powers agreement, any other law enforcement~~
3 ~~agency to act as administrative center upon recommendation of~~
4 ~~five voting members of the DNA advisory committee.]"~~

5 Section 3. Section 29-16-5 NMSA 1978 (being Laws 1997,
6 Chapter 105, Section 5, as amended) is amended to read:

7 "29-16-5. DNA OVERSIGHT COMMITTEE--CREATED--POWERS AND
8 DUTIES.--

9 A. The "DNA identification system oversight
10 committee" is created. The DNA oversight committee shall be
11 composed of nine voting members as follows:

12 (1) a scientific representative from the
13 department crime laboratory appointed by the secretary of
14 public safety;

15 (2) a scientific representative from the crime
16 laboratory of the police department for the largest
17 municipality in a class A county having a population of more
18 than two hundred fifty thousand at the most recent federal
19 decennial census;

20 (3) the secretary of corrections or the
21 secretary's designated representative;

22 (4) the state medical investigator or the
23 investigator's designated representative;

24 (5) the attorney general or the attorney
25 general's designated representative;

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1 (6) the president of the district attorneys
2 association or the president's designated representative;

3 (7) the chief public defender or the chief
4 public defender's designated representative;

5 (8) the president of the New Mexico criminal
6 defense lawyers association or the president's designated
7 representative; and

8 (9) the head of the administrative center or
9 the head's designated representative.

10 B. The DNA oversight committee shall designate a
11 qualifying crime laboratory where the administrative center is
12 to be located.

13 [~~B.~~] C. The DNA oversight committee shall adopt
14 rules and procedures regarding the administration and operation
15 of the DNA identification system.

16 [~~C.~~] D. The administrative center shall review and
17 make recommendations to the DNA oversight committee regarding
18 rules and procedures for the administration and operation of
19 the DNA identification system.

20 [~~D.~~] E. The DNA oversight committee shall oversee
21 the establishment and administration of the missing persons DNA
22 identification system as part of the DNA identification system.

23 [~~E.~~] F. The DNA oversight committee shall adopt
24 rules and procedures regarding the administration and operation
25 of the missing persons DNA identification system as part of the

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